

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

2008 AUG 22 AM 10:42

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Francisco Javier LOPEZ-Rodriguez

Defendant

'08 MJ 2584

Magistrate Case No. _____

COMPLAINT FOR VIOLATION OF

Title 8, U.S.C., § 1326

Attempted Entry After

Deportation

Title 18, U.S.C. § 1544

Misuse of Passport

(Felony)

YKH
DEPUTY

The undersigned complainant being duly sworn states:

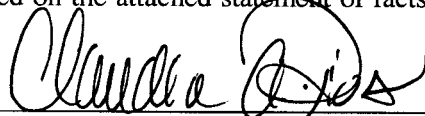
Count 1

That on or about **August 21, 2008** within the Southern District of California, defendant **Francisco Javier LOPEZ-Rodriguez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the **San Ysidro Port of Entry**, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

Count 2

That on or about **August 21, 2008**, within the Southern District of California, defendant **Francisco Javier LOPEZ-Rodriguez** did knowingly and willfully use a passport issued or designed for the use of another, with the intent to gain admission into the United States in the following manner, to wit: Defendant applied for entry to the United States by presenting U.S. passport number 039753206, issued to Daniel Diaz to a Department of Homeland Security, Customs and Border Protection Officer, knowing full well that he was not Daniel Diaz, and that the passport was not issued or designed for his use, in violation of Title 18, United States Code, Section 1544.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

Claudia Rios, United States Customs and Border
Protection, Enforcement OfficerSWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **22nd** DAY OF **August**, 2008.


UNITED STATES MAGISTRATE JUDGE

2/21/08
KMH

PROBABLE CAUSE STATEMENT

On August 21, 2008 at approximately 12:50 PM, **Francisco Javier LOPEZ-Rodriguez (Defendant)** applied for admission to the United States at the San Ysidro Port of Entry, pedestrian primary lanes. Defendant presented a United States Passport issued to another person (039753206) to a CBP Officer. The CBP Officer conducted a query in the Integrated Border Inspection System (IBIS) and received a positive notification for a lost or stolen passport. The CBP Officer referred Defendant to the pedestrian secondary inspection area.

During secondary inspection, a CBP Officer queried Defendant's fingerprints in the Integrated Automated Fingerprint Identification System (IAFIS) and Automated Biometric Identification System (IDENT). The officer received a positive match, confirming Defendant's identity as a Citizen of Mexico, having been previously deported.

Further queries in the Central Index System (CIS) and the Enforce Alien Removal Module (EARM) confirmed that on or about June 17, 2008 Defendant was ordered removed from the United States to Mexico by an Immigration Judge. Service Records also indicate that Defendant was last physically removed to Mexico on August 11, 2008 through the San Ysidro Port of Entry. Immigration records indicate the Defendant has neither applied for nor received permission to legally reenter the United States from the United States Attorney General or the Secretary of Homeland Security.

Defendant was advised of his Miranda rights and elected to answer questions without an attorney present. Defendant admitted that he is a citizen of Mexico without any rights or entitlements to either; enter, pass through, or reside in the United States. Defendant admitted that he was deported by an Immigration Judge in June of 2008 and was physically removed through the El Paso, TX. Port of Entry. Defendant admitted to using the passport of another person in his attempt to enter the United States. Defendant admitted that he knew it was illegal to enter the United States after having been deported by an Immigration Judge. Defendant stated that he was on his way to Oregon to resume his residency.